

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

JAMIN FELDER, a/k/a Mia Felder,

Plaintiff,

v.

9:17-CV-0761
(GTS/ATB)

THOMAS, Super. of Marcy Corr. Fac., f/k/a John
Doe 2; and BRENT ROGERS, Corr. Officer,

Defendants.

APPEARANCES:

OF COUNSEL:

JAMIN FELDER

Plaintiff, *Pro Se*
8440 Grand Ave., Apt. 4D
Queens, New York 11373

HON. BARBARA D. UNDERWOOD
Attorney General for the State of New York
Counsel for Defendants
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Syracuse, New York 13204

TIMOTHY P. MULVEY, ESQ.
Assistant Attorney General

GLENN T. SUDDABY, Chief United States District Judge

DECISION and ORDER

Currently before the Court, in this *pro se* prisoner civil rights action filed by Jamin Felder (“Plaintiff”) against the two above-captioned employees of the New York State Department of Corrections and Community Supervision (“Defendants”), are (1) Defendants’ motion to dismiss Plaintiff’s Amended Complaint for failure to prosecute pursuant to Fed. R. Civ. P. 41(b), and (2) United States Magistrate Judge Andrew T. Baxter’s Report-Recommendation recommending that Defendants’ motion to dismiss be granted, and that Plaintiff’s Amended Complaint be dismissed. (Dkt. Nos. 26, 28.) None of the parties have filed objections to the Report-

Recommendation, and the deadline by which to do so has expired. (*See generally* Docket Sheet.)

After carefully reviewing the relevant papers herein, including Magistrate Judge Baxter's thorough Report-Recommendation, the Court can find no clear-error in the Report-Recommendation.¹ Magistrate Judge Baxter employed the proper standards, accurately recited the facts, and reasonably applied the law to those facts. As a result, the Report-Recommendation is accepted and adopted in its entirety for the reasons set forth therein, Defendants' motion to dismiss is granted, and Plaintiff's Amended Complaint is dismissed.

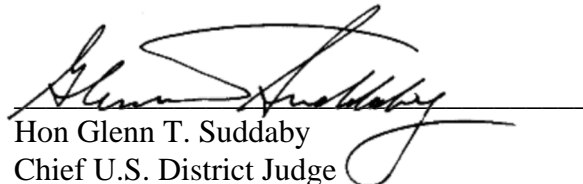
ACCORDINGLY, it is

ORDERED that Magistrate Judge Baxter's Report-Recommendation (Dkt. No. 28) is **ACCEPTED** and **ADOPTED** in its entirety; and it is further

ORDERED that Defendants' motion to dismiss Plaintiff's Amended Complaint for failure to prosecute pursuant to Fed. R. Civ. P. 41(b) (Dkt. No. 26) is **GRANTED**; and it is further

ORDERED that Plaintiff's Amended Complaint (Dkt. No. 4) is **DISMISSED**, and the Clerk of Court shall enter Judgment for Defendants and close this action.

Dated: November 13, 2018
Syracuse, New York


Hon Glenn T. Suddaby
Chief U.S. District Judge

¹ When no objection is made to a report-recommendation, the Court subjects that report-recommendation to only a clear error review. Fed. R. Civ. P. 72(b), Advisory Committee Notes: 1983 Addition. When performing such a "clear error" review, "the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." *Id.*; see also *Batista v. Walker*, 94-CV-2826, 1995 WL 453299, at *1 (S.D.N.Y. July 31, 1995) (Sotomayor, J.) ("I am permitted to adopt those sections of [a magistrate judge's] report to which no specific objection is made, so long as those sections are not facially erroneous.") (internal quotation marks omitted).